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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/048,202	04/22/2002	Peter De Block	1989	6459
7590	12/15/2004		EXAMINER	
Striker Striker & Stenby 103 East Neck Road Huntington, NY 11743			GRAHAM, GARY K	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 12/15/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/048,202	DE BLOCK ET AL. <i>TN</i>
Examiner	Art Unit	
Gary K Graham	1744	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 03 September 2004 and 01 October 2004.
 2a) This action is **FINAL**. 2b) This action is non-final.
 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 21,23-26,28-31,33,35,38,39 and 41-47 is/are pending in the application.
 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
 5) Claim(s) _____ is/are allowed.
 6) Claim(s) 21,23-26,28-31,33,35,38 and 39 is/are rejected.
 7) Claim(s) 21,23-26,28-31,33,35,38,39 and 41-47 is/are objected to.
 8) Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
 10) The drawing(s) filed on _____ is/are: a) accepted or b) objected to by the Examiner.
 Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
 Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION***Claim Objections***

Initially, it should be noted that claim 21 presented in the 01 October 2004 amendment is given a status identifier of "previously presented". However, the claim is amended in the 01 October 2004 filing. Therefore, the proper status identifier should have been ---currently amended---. Applicant is cautioned to ensure the proper status identifier is used in future amendments to avoid a notice of non-compliance.

Claims 21, 23-26, 28-31, 33, 35, 38, 39 and 41-47 are objected to because of the following informalities:

In claim 21, line 8, it appears "wiper strip" should be ---support element--- as the support element has the upper band surface (11) upon which the wind deflection strip is disposed and not the wiper strip. In lines 10 and 16, "attach surface" should be ---attack surface---.

Claims 41-47 all employ "attach surface" instead of ---attack surface--- and should be amended accordingly.

In claim 41, line 6, it appears "wiper strip" should be ---support element--- as the support element has the upper band surface (11) upon which the wind deflection strip is disposed and not the wiper strip.

Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 21, 23, 24, 25, 26, 28, 30, 31, 35, 38 and 39 are rejected under 35 U.S.C. 102(e) as being anticipated by Egner-Walter et al (US patent application publication 2003/0014828).

The patent to Egner-Walter discloses the invention as is claimed (fig.6), including a deflection strip (11c) with diverging legs (not numbered but shown), when viewed in cross section, that are joined by a common base. The legs are formed where the strip (11c) separates to go around the wiper strip (2). The free ends of the legs engage an upper band surface of the elastic support element (3,4) that engages the rubber wiper strip (2). The outside of the legs have a continuous surface that is considered to be a fluted attack surface, at least as far as defined.

With respect to claim 24, 25 and 28, Egner-Walter discloses (paragraph 44) that the ends of the strip can be laterally closed in the same manner as edge (19), which extends longitudinally along the blade.

With respect to claim 26, since the edge (19) is rounded around the support element, there will be an acute angle defined between the outside of the wall, at least at one point, and the support element.

With respect to claim 30, note that gluing is not required.

With respect to claims 38 and 39, note that no hardness difference is required by the claims. A maximum of either 40 or 20 percent greater hardness for the deflection strip over the wiper strip is claimed. A zero percent greater hardness for the deflection strip over the wiper strip would meet the claim. Since Egner-Walter does not discuss a hardness difference between the deflection strip and the wiper strip, none is assumed. Therefore, it appears Egner-Walter would meet the zero percent greater hardness for the deflection strip over the wiper strip.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 29 and 33 are rejected under 35 U.S.C. 103(a) as being unpatentable over Egner-Walter et al (US patent application publication 2003/0014828) in view of Merkel et al (German patent 19736368).

The patent to Egner-Walter discloses all of the above recited subject matter with the exception of the deflection strip being glued to the support element.

The patent to Merkel discloses coupling of a deflection strip (32) to a support element (12) via a glued connection (col. 2, lines 20-28).

It would have been obvious to one of skill in the art to couple the deflection strip of Egner-Walter to the support element by gluing, as clearly suggested by Merkel, to increase the security of the connection between the deflection strip and the support element. It appears such gluing could be instead of the claw-like projections or in addition thereto to provide increased connection strength. Further, use of glue or adhesives as a sole connector or in addition to mechanical connectors is notoriously well known and could readily be employed in the Egner-Walter wiper device.

Response to Arguments

Applicant's arguments filed 03 September 2004 have been fully considered but they are not persuasive. Applicant argues that the Egner-Walter reference fails to show a wiper blade whose wind deflection strip has two divergent legs which are connected to a common base. Such is not persuasive. As can be seen in figure 6 of Egner-Walter, the deflection strip (11c) has a base portion (upper middle portion) that divides into two "legs" as it passes around the wiper strip (2) and support elements (3,4). While the "legs" of Egner-Walter may be short as visually compared to applicant's, they are still considered to be legs as they extend away from the base portion and have ends that engage the support elements. While applicant argues that Egner-Walter merely has claw projections, such is not persuasive. Note that no particular length for the legs has been claimed that would distinguish from Egner-Walter. While applicant sets forth that the divergent legs of claim

21 cannot be equated with outer sides of the triangle of Egner-Walter, such is not at issue as the deflection strip does have legs as claimed, as set forth above. Again, applicant is not claiming any particular structure different than that which is defined by Egner-Walter. No particular legs or size of legs has been set forth that would distinguish from Egner-Walter. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., a chamber) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

Allowable Subject Matter

Claims 41-47 would be allowable if rewritten or amended to overcome the objections set forth in this Office action. In particular, changing "attach surface" to ---attack surface--- to be consistent with the written description. Additionally, changing "wiper strip" to ---support element--- in line 6 of claim 41.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Gary K Graham whose telephone number is 571-272-1274. The examiner can normally be reached on Tuesday to Friday (6:30-4:00).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Robert Warden can be reached on 571-272-1281. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Gary K Graham
Primary Examiner
Art Unit 1744

GKG
10 December 2004